

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

MICHAEL B. KINGSLEY,

Plaintiff,

vs.

Case No. 10-CV-832

STAN HENDRICKSON and FRITZ DEGNER,

Defendants.

**DEFENDANT’S RESPONSE TO DRAFT POST-TRIAL
INSTRUCTIONS AND VERDICT FORMS**

Pursuant to the Final Pretrial Conference Order dated February 19, 2016 (Docket No. 223), defendants, Stan Hendrickson and Fritz Degner, submit this response to the following drafts supplied by the Court to the parties on February 22, 2016: (1) Post-Trial Jury Instructions; (2) Special Verdict Form; (3) Introductory Jury Instructions: Damages; (4) Post-Trial Jury Instructions: Damages; and (5) Special Verdict Form: Damages. Defendants reserve the right to supplement these responses based on the evidence and rulings at trial and during the formal instructions conference.

I. POST-TRIAL JURY INSTRUCTIONS.

1. Defendants request that the reference to “a felony” in the first sentence of the text under the heading “Conviction of Crime” (p. 3) be changed to “felonies” to conform to the anticipated evidence.

2. Defendants renew their request that the Court add an instruction consistent with Pattern Instruction Civil – 7.01 of the Seventh Circuit Pattern Jury Instructions reminding the jury that Monroe County is not a party to this lawsuit. (*See* Docket No. 193, Ex. A.) Given the expected testimony and other evidence regarding the applicable policies of the County, and in light of the fact that multiple current and former officers from the Monroe County Sheriff’s

Department other than the two named defendants are expected to testify at trial, defendants believe it is necessary to remind the jury that the County is not a party to the lawsuit and that the pattern instruction would serve this purpose without prejudicing plaintiff.

II. SPECIAL VERDICT FORM.

Defendants do not propose any changes to the draft Special Verdict Form.

III. INTRODUCTORY JURY INSTRUCTIONS: DAMAGES.

Defendants do not proposed any changes to the draft Introductory Jury Instructions: Damages.

IV. POST-TRIAL JURY INSTRUCTIONS: DAMAGES.

Defendants request that the reference to “the harm caused by defendants” in the first sentence of the text under the heading “Compensatory Damages” (p. 3) be changed to either “the harm, if any, caused by defendants” or “any harm caused by defendants.” As written, this sentence assumes that plaintiff was harmed by defendants’ conduct, when, in fact, the remaining portions of the instruction make clear that plaintiff bears the burden of establishing any harm.

V. SPECIAL VERDICT FORM: DAMAGES.

1. Defendants request that Question No. 1 be changed to reflect the wording suggested in § IV above.

2. Defendants request that Question No. 2 be changed to read as follows: “Did one or both of the defendants act maliciously or in a way that demonstrated a willful or reckless disregard for plaintiff’s rights?” Defendants request this change so that the special verdict question more closely tracks the jury instruction regarding punitive damages.

Dated this 24th day of February, 2016.

s/ Andrew A. Jones

Andrew A. Jones

Timothy H. Posnanski

Attorneys for Defendants

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